

PROB 12B
Rev 01-17

FILED

JUL 24 2017

Clerk, U.S. Courts
District Of Montana
Missoula Division

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MONTANA**

**REQUEST FOR MODIFYING THE CONDITIONS OR TERM OF SUPERVISION
WITH CONSENT OF THE OFFENDER**
(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Joseph Franklin Reynolds

Docket Number: 0977 2:12CR00007-001

Name of Sentencing Judicial Officer:

THE HONORABLE DANA L. CHRISTENSEN
CHIEF UNITED STATES DISTRICT JUDGE

Date of Original Sentence: 12/07/2012

Original Offense: 18:1470.F; TRANSFER OF OBSCENE MATERIALS TO MINORS, 18:2252A.F;
ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD
PORNOGRAPHY

Original Sentence: 60 months custody, 120 months supervised release

Type of Supervision: Supervised Release

Date Supervision Commenced: 05/12/2017

PETITIONING THE COURT

☒ To modify the conditions of supervision as follows:

Modified
Condition

Condition Description

- | | |
|---|--|
| 1 | The defendant shall abstain from the consumption of alcohol and shall not enter establishments where alcohol is the primary item of sale. This condition supersedes standard condition #7 with respect to alcohol consumption only. |
| 2 | The defendant shall not purchase, possess, use, distribute or administer marijuana, or obtain or possess a medical marijuana card or prescription. This condition supersedes standard condition #7 with respect to marijuana only. |
| 3 | The defendant shall not possess, ingest or inhale any toxic substances such as, but not limited to, synthetic marijuana and/or synthetic stimulants that are not manufactured for human consumption, for the purpose of altering their mental or physical state. |
| 4 | The defendant shall participate in and complete a program of substance abuse treatment as approved by the United States Probation Office, until the defendant is released from the program by the probation officer. The defendant is to pay part or all of the cost of this treatment, as directed by the United States Probation Office. |

Request for Modifying the Conditions or Terms of Supervision

Name of Offender: Joseph Franklin Reynolds

Page 2

- 5 The defendant shall participate in substance abuse testing to include not more than 365 urinalysis tests, not more than 365 breathalyzer tests, and not more than 36 sweat patch applications annually during the period of supervision. The defendant shall pay all or part of the costs of testing as directed by the United States Probation Office.
- 6 The defendant will provide the United States Probation Officer with any requested financial information and shall incur no new lines of credit without prior approval of the United States Probation Officer. You must notify the Probation Officer of any material changes in your economic circumstances that might affect your ability to pay restitution, fines or special assessments.
- 7 The defendant shall not possess any police radio scanning devices or possess any computer hardware or software that would enable the defendant to monitor law enforcement activity.
- 8 The defendant shall make a good faith effort to obtain a G.E.D. or high school diploma within the first year of supervision.
- 9 The defendant shall have no contact with victim(s) in the instant offense.
- 10 All employment must be approved in advance in writing by the United States Probation Office. The defendant shall consent to third-party disclosure to any employer or potential employer.
- 11 The defendant shall enter and successfully complete a sex offender treatment program. The defendant is to enter a program designated by, and until released by, the United States Probation Office. The defendant is to pay all or part of the costs of treatment as directed by United States Probation Office.
- 12 The defendant shall submit to not more than six polygraph examinations per year as directed by United States Probation to assist in treatment, planning, and case monitoring. The defendant maintains the Fifth Amendment rights during polygraph examinations and may refuse to answer any incriminating questions. The defendant is to pay all or part of the cost of the examinations as directed by United States Probation Office.
- 13 The defendant shall not be allowed to do the following without prior written approval of United States Probation: knowingly reside in the home, residence, or be in the company of any child under the age of 18, with the exception of their own children; go to or loiter within 100 yards of school yards, parks, playgrounds, arcades, or other places primarily used by children under the age of 18.

Request for Modifying the Conditions or Terms of Supervision

Name of Offender: Joseph Franklin Reynolds

Page 3

- 14 The defendant shall not possess camera phones or electronic devices that could be used for covert photography without the prior written approval of the United States Probation Office.
- 15 The defendant shall not knowingly acquire, possess, or view any materials depicting sexually explicit conduct as defined in 18 U.S.C. § 2256(2)(A), if the materials, taken as a whole, are primarily designed to arouse sexual desire, unless otherwise approved by the supervising probation officer in conjunction with defendant's sex offender treatment provider. This condition applies to written stories, visual, auditory, telephonic, or electronic media, computer programs or services, and any visual depiction as defined in 18 U.S.C. § 2256(5).

The defendant shall not knowingly patronize any place where sexually explicit material or entertainment is the primary item of sale, such as adult bookstores, clubs, or Internet sites, unless otherwise approved by the supervising probation officer in conjunction with defendant's sex offender treatment provider. The defendant shall not utilize 900 or adult telephone numbers or any other sex-related numbers, or on-line chat rooms that are devoted to the discussion or exchange of sexually explicit materials as defined above.
- 16 The defendant shall submit their person, and any property, residence, place of employment, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, to which the defendant has access, to a search at a reasonable time and a reasonable manner, with or without a warrant, by the United States Probation Office, or by any law enforcement officers upon the express direction of the United States Probation Office, with reasonable suspicion concerning a violation of a condition of supervision or unlawful conduct by the defendant. Failure to submit to search may be grounds for revocation. The defendant shall warn any other occupants, adults, and minors that the premises may be subject to searches pursuant to this condition. The defendant shall allow seizure of suspected contraband for further examination.
- 17 The defendant shall not knowingly possess or use any computer or other device with access to any on-line computer service without the prior written approval of the probation officer. The defendant shall allow the probation officer to make unannounced examinations of their computer, hardware, and software, which may include the retrieval and copying of all data from defendant's computer. The defendant shall allow the probation officer to install software to restrict the defendant's computer access or to monitor the defendant's computer access. The defendant shall not possess encryption or steganography software. The defendant shall provide records of all passwords, Internet service, and user identifications (both past and present) to the probation officer and immediately report changes. The

Request for Modifying the Conditions or Terms of Supervision

Name of Offender: Joseph Franklin Reynolds

Page 4

defendant shall sign releases to allow the probation officer to access phone, wireless, Internet, and utility records.

- 18 The defendant shall pay restitution in the amount of \$65,618. The defendant is to make payments at a rate of \$250 per month, or as otherwise directed by United States Probation. Payment shall be made to the Clerk, United States District Court, United States District Court, 273 Federal Building, Butte, MT 59701 and shall be disbursed to the names and addresses provided to the Clerk of Court.

**** CAUSE ****

On 12/07/2012, the defendant appeared for sentencing before THE HONORABLE DANA L. CHRISTENSEN, CHIEF UNITED STATES DISTRICT JUDGE, having pled guilty to the offenses of 18:1470.F; TRANSFER OF OBSCENE MATERIALS TO MINORS, 18:2252A.F; ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY. The offense involved the defendant using a found cell phone to manipulate contacts contained within the phone to send nude pictures of themselves. This was accomplished, in part, by sending pictures of his genitals, purporting to be the phones owner. The defendant was sentenced to 60 months custody, each count, concurrent, followed by 3 years supervised release for Count 4, and 10 years for Count 5, concurrent. The defendant began the original term of supervised release on 05/12/2017.

Since that time, the probation officer believes the offender has violated the following condition(s) of supervision:

Violation Number Nature of Noncompliance

- 1 **Special condition:** The defendant shall not possess or view any materials depicting sexually explicit conduct as defined in 18 U.S.C. § 2256(2)(A), including visual, auditory, telephonic, or electronic media, computer programs or services. The defendant shall not utilize 900 or adult telephone numbers or any other sex-related numbers.

It is alleged the defendant possessed pornographic magazines on or between May 12, 2017, and May 19, 2017.

On May 19, 2017, the defendant advised that, upon his arrival in Helena on May 12, 2017, he had purchased three magazines from a local store, and ultimately hid them in the ceiling of the laundry room at the God's Love mission. He came without prompting to the Helena U.S. Probation Office on the 19th to report his conduct; which he stated he didn't realize was inappropriate until after signing the conditions of supervision on May 15th. He then accompanied this officer to the mission and retrieved the materials.

- 2 **Special condition:** The defendant shall enter and complete a sex offender treatment program as directed by, and until released by, the United States

Request for Modifying the Conditions or Terms of Supervision

Name of Offender: Joseph Franklin Reynolds

Page 5

Probation Office. The defendant shall abide by the policies of the program to include physiological testing. The defendant is to pay all or part of the costs of treatment as directed by United States Probation Office.

It is alleged the defendant failed to attend sex offender treatment on the evening of June 19, 2017. He advised he was moving and failed to realize the time. His treatment provider allows two unexcused absences; of which this will count as one. The defendant insisted this would not happen again.

- 3 **Standard condition:** The defendant shall notify the probation officer at least 10 days prior to any change in residence or employment.

It is alleged the defendant quit his job in the bakery of Van's Thriftway without permission, or proper notification to this officer.

He reported that he had become ill, and left his shift early on the evening of July 3, 2017. He then failed to return to work for the rest of the week. He neither received permission from, nor notified his employer with regard to his absence. His employer reported the defendant was determined to have quit and would not be eligible for re-hire.

U.S. Probation Officer Recommendation:

Although the violations listed above are significant, they are not wholly atypical for a person in the defendant's circumstances. This is a young man fresh from a lengthy prison term who is struggling to adjust to the demands of adult responsibility, made more critical by the additional demands of federal and state supervision. It is this officer's opinion the Court need be informed of these stumbles, yet take no formal corrective action at this time

The above modification is requested to amend conditions of release ordered in the original judgment for this case. The modified conditions are necessary to conform with 9th circuit case law and decisions. Should Your Honor agree with the recommendation, I have enclosed a copy of the Probation 49, Waiver of Hearing to Modify Conditions of Probation, where the defendant has voluntarily agreed to modify their conditions. The United States Attorney's office and the defendant's appointed counsel have both been apprised of, and consented to this modification.

Reviewed

By:

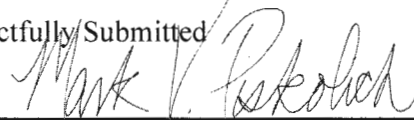


Eric C. Buehler
Supervising United States Probation
Officer

Date: 07/17/2017

Respectfully Submitted

By:



Mark V Piskolich
United States Probation Officer

Date: 07/17/2017

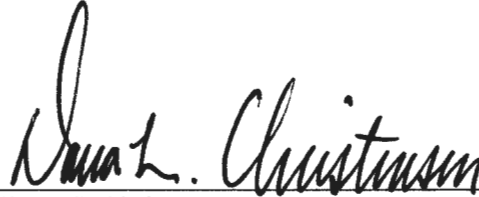
Request for Modifying the Conditions or Terms of Supervision

Name of Offender: Joseph Franklin Reynolds

Page 6

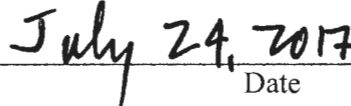
ORDER OF COURT

- ☐ The Extension of Supervision as Noted Above
☒ The Modification of Conditions as Noted Above
☐ No Action
☐ Other



Dana L Christensen

Chief United States District Judge



Date